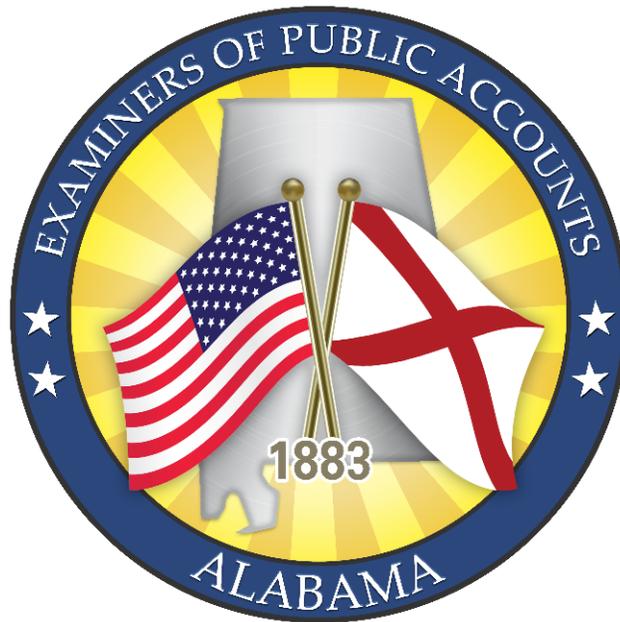


Report on the

Real Estate Commission

Montgomery, Alabama



**Department of
Examiners of Public Accounts**
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Montgomery, Alabama 36130-2251
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Rachel Laurie Riddle, Chief Examiner



Rachel Laurie Riddle
Chief Examiner

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July 22, 2020

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Real Estate Commission in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama Real Estate Commission, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Rachel Laurie Riddle
Chief Examiner

Examiner
Janet L. Berry

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PROFILE

Purpose/Authority

The Alabama Real Estate Commission was established in 1927 by Act No. 344, Acts of Alabama 1927. The Commission licenses and regulates real estate companies, brokers, salespersons, instructors, and schools in Alabama. Currently, the Commission operates under the authority of the *Code of Alabama 1975*, Section 34-27-1 through 34-27-101.

There was no legislation passed since the sunset review of this agency.

<u>Characteristics</u>	
Members and Selection	<p>Nine members. Eight real estate professionals and one consumer, appointed by the Governor with the advice and consent of the Senate:</p> <ul style="list-style-type: none">• Real estate professionals are appointed from a list of three persons nominated by the governing body of the Alabama professional real estate society or trade association with the largest licensee membership – currently the Alabama Association of Realtors• At least one person nominated for each position shall not be a member of the real estate society or trade association• The consumer member is appointed directly by the Governor <p><i>Code of Alabama 1975</i>, Section 34-27-7(a)(e)</p>
Term	<p>Members serve five-year terms, and serve until their successors are appointed and confirmed. Members shall not serve more than two consecutive terms.</p> <p><i>Code of Alabama 1975</i>, Section 34-27-7(c)</p>
Qualifications	<p>Real estate professionals</p> <ul style="list-style-type: none">• Resident of the state for at least 10 years prior to appointment• Vocation of real estate broker or salesperson for at least 10 years prior to appointment• Not convicted of any violation of federal or state real estate license law

	<p>Consumer member</p> <ul style="list-style-type: none"> Registered voter, 21 or older, no felony convictions, and a resident of the state for at least 10 years prior to appointment Owner of real property, not licensed as a real estate broker or salesperson for 10 years prior to appointment, and not related to, or employed by, a real estate licensee <p><i>Code of Alabama 1975, Section 34-27-7(c)(e)</i></p>
Consumer Representation	<p>One consumer member required. One consumer member serving.</p> <p><i>Code of Alabama 1975, Section 34-27-7(e)</i></p>
Racial Representation	<p>One black professional member required. Two black members serving.</p> <p><i>Code of Alabama 1975, Section 34-27-7(d)</i></p>
Geographical Representation	<p>Seven positions on the Commission are reserved for each congressional district. The black member position and the consumer member position may be appointed from any congressional district, with each successor appointed from a different district on a rotating basis.</p> <p><i>Code of Alabama 1975, Section 34-27-7(c)(d)</i></p>
Other Representation	<p>No other specific statutory requirement.</p>
Compensation	<p>Members receive \$300.00 per month, and are reimbursed for travel expenses in the same manner as state employees.</p> <p><i>Code of Alabama 1975, Section 34-27-7(g)</i></p>
Attended Board Member Training	<p>Eight commission members Ten employees Executive Director</p>
<u>Operations</u>	
Administrator	<p>Vaughn T. Poe, Executive Director \$134,940.00 annual salary, set by the Commission and approved by the State Personnel Director</p> <p><i>Code of Alabama 1975, Section 34-27-7(h)</i></p>

Location	1201 Carmichael Way Montgomery, AL 36106 Office Hours: M-F 7:30 to 4:30
Employees	35
Legal Counsel	Mandy Speirs, Assistant Attorney General, employee of the Commission, provides legal counsel.
Subpoena Power	Yes, for witnesses and records. <i>Code of Alabama 1975</i> , Sections 34-27-36(a) and 34-27-37(b)
Internet Presence	www.arec.alabama.gov Information available includes: <ul style="list-style-type: none"> • News / Calendar / Meeting minutes • Directory of commission members and staff • Law and rules • Licensee verification • Licensing forms / License renewal • Consumer complaint form and feedback survey
<u>Financial</u>	
Source of Funds	License fees and fines
State Treasury	The Board operates from three Special Revenue Funds in the State Treasury: Fund 371 - Real Estate Commission Fund (Operating fund) Fund 372 - Real Estate Recovery Fund Fund 569 - Real Estate Commission Proportionate Fund <i>Code of Alabama 1975</i> , Section 34-27-4 and 34-27-31(a)
Required Distributions	Fund 569 Real Estate Commission Proportionate Fund- <ul style="list-style-type: none"> • Fees collected for research and education are disbursed quarterly to the Real Estate Research and Education Center. Interest or other income from investments in the proportionate fund are deposited into the operating fund. Fund 372 Real Estate Recovery Fund <ul style="list-style-type: none"> • Interest or other income from investments in the recovery fund are deposited into the operating fund, with one-half transmitted to the University of Alabama Real Estate Research and Education Center <i>Code of Alabama 1975</i> , Section 34-27-4 and 34-27-31(f)

Unused Funds	Unused funds are retained at fiscal year-end. <i>Code of Alabama 1975, Section 34-27-4</i>
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Licensee Information

Licensees	<p>Active Licenses as of March 9, 2020</p> <table border="1" data-bbox="630 466 1169 808"> <thead> <tr> <th>Type</th> <th></th> </tr> </thead> <tbody> <tr> <td>Company</td> <td>4,053</td> </tr> <tr> <td>Broker</td> <td>7,204</td> </tr> <tr> <td>Salesperson</td> <td>13,673</td> </tr> <tr> <td>Temporary Salesperson</td> <td>936</td> </tr> <tr> <td>Instructor</td> <td>388</td> </tr> <tr> <td>Administrator</td> <td>81</td> </tr> <tr> <td>Schools</td> <td>210</td> </tr> <tr> <td>Total</td> <td>26,545</td> </tr> </tbody> </table> <p><i>Source:</i> Executive Assistant</p>	Type		Company	4,053	Broker	7,204	Salesperson	13,673	Temporary Salesperson	936	Instructor	388	Administrator	81	Schools	210	Total	26,545
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Qualifications	<p>Salesperson License</p> <ul style="list-style-type: none"> • US citizen or legally present • At least 19 years old • High school graduation or equivalent • Has not been convicted of a felony • Has not had an application or license rejected or revoked in any state within two years • Federal and state criminal background check • Complete approved 60 clock hour pre-license course • Pass examination • Complete 30 hour post license training course within 12 months of licensure. <p>Broker License</p> <ul style="list-style-type: none"> • Meet same requirements as salesperson • In addition, must have held an active real estate salesperson license in any state for at least 24 months of the 36 month period immediately preceding the date of application <p>Company License</p> <ul style="list-style-type: none"> • Application made by qualifying broker • Must maintain a place of business • Must have a license for each separate location or branch office
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	<p>School License</p> <ul style="list-style-type: none"> • Furnish surety bond - \$20,000 • A designated administrator approved by the Commission <p>Instructor License</p> <ul style="list-style-type: none"> • Hold and maintain a current broker license • Not have been found guilty of violating any provision of real estate license law • Meet Commission requirements in education, industry experience, and teaching experience <p>All licensees must complete application forms as prescribed by the Commission, and pay all applicable license fees.</p> <p><i>Code of Alabama 1975</i>, Section 34-27-32, 34-27-33, and 34-27-6(c)(e) <i>Administrative Rule</i> 790-X-1-.07 and 790-X-2</p>																		
Examinations	<p>Applicants for a salesperson or broker license must pass a licensing examination. Real estate licensing examinations are administered at PSI/AMP Assessment Centers in Birmingham, Dothan, Huntsville, Mobile, and Montgomery. The exams are administered by appointment only, and exam fees are paid directly to PSI/AMP.</p> <p>Licensing Examination Statistics including Reciprocal Exams</p> <table border="1" data-bbox="548 1203 1349 1430"> <thead> <tr> <th colspan="3">Salesperson Examination - 2019</th> </tr> <tr> <th>#Taken</th> <th>#Passed</th> <th>%Passed</th> </tr> </thead> <tbody> <tr> <td>5,511</td> <td>2,903</td> <td>52.7%</td> </tr> <tr> <th colspan="3">Broker Examination - 2019</th> </tr> <tr> <th>#Taken</th> <th>#Passed</th> <th>%Passed</th> </tr> <tr> <td>541</td> <td>461</td> <td>85.2%</td> </tr> </tbody> </table> <p><i>Source:</i> Executive Assistant</p>	Salesperson Examination - 2019			#Taken	#Passed	%Passed	5,511	2,903	52.7%	Broker Examination - 2019			#Taken	#Passed	%Passed	541	461	85.2%
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Reciprocity	<p>Applicants who apply for a reciprocal license must submit proof of licensure in another state, complete at least six hours of course work in Alabama real estate, pass a written examination prepared by the Commission on the subject of Alabama real estate, and pay the applicable fee. There are no state specific agreements.</p> <p><i>Code of Alabama 1975, Section 34-27-32(b)</i></p>
Renewals	<p>Licenses expire biennially on September 30. Renewals must be received by August 31 to avoid a late penalty.</p> <p>Online renewal is available. 85% of licensees renewed online in 2018. 100% of Instructors, Administrators, and Schools renewed online in 2019.</p> <p><i>Code of Alabama 1975, Section 34-27-35(g)</i></p>
Licensee Demographics	<p>Demographic data is not readily available.</p>
Continuing Education	<p>Salespersons and brokers must complete 15 hours of approved continuing education as a condition for license renewal. Pre-license and post-license instructors must complete 12 hours of approved training courses as a condition for license renewal.</p> <p><i>Code of Alabama 1975, Section 34-27-35(j)</i> <i>Administrative Rule 790-X-1-.10(8)(a)</i></p>

SIGNIFICANT ISSUES

No new significant issues.

STATUS OF PRIOR FINDINGS / SIGNIFICANT ISSUES

Significant Issue 2019-01 - Two commission members, who are also full-time employees of state universities, were paid \$300 per month compensation for serving on the Commission that they were not entitled to receive. One member received \$8,311.50 from October 1, 2016 through March 29, 2019; and one member received \$7,480.35 from March 17, 2017 through May 30, 2019. According to the *Code of Alabama 1975*, Section 36-6-3 and Attorney General Opinion 2007-102, the members can only receive compensation for the highest paid office, position or employment.

The *Code of Alabama 1975*, Section 36-6-3 states: “Wherever the duties of more than one office, position or employment shall be filled, performed or discharged by one officer or employee, **such officer or employee shall only receive the salary named for the highest paid office, position or employment** so filled, performed or discharged.”

Attorney General’s Opinion 2007-102 issued to the Alabama Real Estate Commission, concluded that: “...a state employee who also serves on a state board is **entitled to the salary or compensation named for the highest paid office, position, or employment and is not entitled to be compensated for both positions.**”

When notified of the payments paid in error, one member reimbursed the Commission \$7,480.35, and the other member met with the Deputy Chief Examiner on May 22, 2019, to show just cause as to why the amount should not be repaid. The Deputy Chief Examiner determined that the member was not entitled to the payments and relief was denied. As of July 2019, the member has not reimbursed the Commission \$8,311.50 for the payments made in error.

Current Status - The member reimbursed the Commission \$8,311.50 in January 2020.

Commission’s Response - To prevent this from happening again, we have added *Code of Alabama 1975*, Section 36-6-3 to our New Commissioner Orientation program and in October of each year all Commission Members are asked to sign a statement as to their eligibility of receiving a monthly benefit for serving on this Commission.

APPENDIX

Commission Members



1201 Carmichael Way / Montgomery, Alabama 36106
Phone: 334.242.5544 / Fax: 334.270.9118
arec.alabama.gov / arec@arec.alabama.gov

Patricia Anderson, Executive Director
Teresa D. Hoffman, Assistant Executive Director

March 9, 2020

Janet Berry
Examiners of Public Accounts
P. O. Box 302251
Montgomery, AL 36130-2251

Dear Ms. Berry:

Following is the information requested for our current Commissioners: name, expiration of term and city.

Emmette Barran
Expiration Date: 09/30/2022
Decatur

Carole J. Harrison
Expiration Date: 09/30/2021
Auburn

J. Reid Cummings
Expiration Date: 09/30/2021
Mobile

Terri May
Expiration Date: 09/30/2021
Sawyer ville

Melody O. Davis
Expiration Date: 09/30/2024
Reform

Danny Sharp
Expiration Date: 09/30/2020
Dothan

Joyce Shivers Harris
Expiration Date: 09/30/2023
Marion Junction

Susan T. Smith
Expiration Date: 09/30/2023
Fort Payne

William A. (Bill) Watts, III
Expiration Date: 09/30/2021
Irondale

Sincerely,

Patricia A. Anderson
Executive Director

PAA/bl

